

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN RE:

**REMARKABLE HEALTHCARE OF
CARROLLTON LP,**

Case No.: 24-40605

**REMARKABLE HEALTHCARE OF
DALLAS, LP,**

Case No.: 24-40608

**REMARKABLE HEALTHCARE OF
FORT WORTH, LP,**

Case No.: 24-40610

**REMARKABLE HEALTHCARE OF
SEGUIN, LP,**

Case No.: 24-40612

REMARKABLE HEALTHCARE, LLC,

Case No.: 24-40611

DEBTORS

**Jointly Administered
Under Case 24-40605**

**First Patient Care Ombudsman Visit to
Remarkable Healthcare Facilities**

Background

On April 11, 2024, the Court appointed Dr. Thomas A. Mackey, PhD, APRN-BC, FAAN, FAANP as the Patient Care Ombudsman (PCO) to monitor and report the quality and safety of patient care being delivered by the Debtors. Dr. Mackey is a Registered Nurse and Nurse Practitioner with 49 years of clinical, teaching, business and administrative experience and has provided PCO services since 2012 for hospital, nursing home and home health care agency

cases. The PCO did not evaluate financial data or individual patient records as part of the process. The PCO was directed to submit bi-monthly reports.

Visit Summaries

The following are the salient points of the PCO visits on April 15, 16, 17, & 18, 2024 – most of which need immediate attention.

General Remarks Related to All Facilities

The magnitude of safety and quality of care issues is overwhelming. Most staff and administrators believe the Chapter 11 proceedings have compromised patient safety and quality of care. Staff verified requests for new supplies, personnel, equipment, and operational hardware frequently are not granted – presumably due to Chapter 11 financial constraints - at the corporate level. Lower than market wages offered by the Debtor, negative community reputation, bounced paychecks, delayed payroll, and labor market competition make filling the multiple personnel vacancies extremely challenging resulting in a compromise of safety and quality of care. There is a significant gap in communication between the owners and leadership at the local levels. Given the lack of attention to infection control, each facility would greatly benefit from a certified infection control specialist consultation to further identify safety and quality of care issues related to the buildings, staff practices, and policies and procedures impacting infections. Facility infrastructures and equipment suffer from a lack of attention to maintenance and/or replacements directly affecting patient safety and quality of care.

Specific location issues include, but are not limited to, the following:

Seguin Facility

1. Significant staff turnover and vacancies over the past few months pose serious threats to patient safety and quality of care. There are multiple open positions for direct patient care staff in nursing, wound care, physical therapy, social work, speech therapy, dietary resulting in significant pressure on the current employees. The Director of Nursing (DON) was unable to provide the PCO with an estimate of patient to nurse staffing ratios.
2. There is a lack of evidence that several State of Texas mandated yearly nursing in-services have been conducted.
3. There is no evidence tuberculosis testing has been performed on any employees.
4. There is no evidence demonstrating nurses' competency evaluations were ever performed. Additionally, there is no evidence nursing staff receive on-going competency training throughout the year. Consequently, there is no evidence the facility can assure nurses are competent to provide safe quality care.
5. There is no process in place to measure patient satisfaction.
6. The Debtor's Nursing Facility License is current and will not expire until July 1, 2024.
7. Staff report difficulty cashing payroll checks from the Debtor with multiple sources in the community. Payroll issues have significantly impacted staff turnover and ability to attract new employees in a negative manner.
8. One HVAC unit servicing a large hallway has been out of service for three years.
9. Post PCO visit the Seguin administrator notified the owners of his resignation effective in 30 days. The resignation will undoubtedly present further challenges to processes and structure necessary for safety and quality of patient care.

Dallas Facility

1. Nurses use personal computers to access a secure patient record system via the Web.
Personal computers are taken home at night and brought back to the facility during the day. The PCO knows of no other health care organization where such practice is allowed and has concerns regarding patient record security.
2. The facility does not own any blood pressure machines. Nurses bring personal blood pressure cuffs to the facility to take patient blood pressures. No calibrations are ever performed on the cuffs. Glucometer calibrations and refrigerator logs are sporadic.
3. In the kitchen the PCO found rotten/broken/wet tiles, food on tables in the patient dining room, floors wet and slippery, spilled food on floors and in sinks, stove pilot lights only partially working, open plastic food bags exposing food in the refrigerator, one of the two sink incinerators broken, one HVAC broken, etc.
4. Maintenance issues include: no life safety certificate available despite 16 sited deficiencies by the Dallas Fire Marshall in February 2024, two restrooms not working due to sewage back-up for at least the past 10 months, laundry room water heater broken for >10 months resulting in cold water wash only for all linen/clothes, one water heater broken in a patient room area requiring manual start daily, multiple hall lights are not working over the nurse's station, hallway baseboards/door trim are loose and in need of painting/repair, biohazard room is filthy with bags lying on the ground. The patient transportation van has no air conditioning or heat presenting serious patient safety concerns given the cold and heat in Texas.
5. There is no evidence of nurse's competency testing or retraining.
6. There is no record of consulting/contracted clinician's (physicians or nurse practitioners)

152 credentials on file and no one at the administrative level claims responsibility. The
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154 administrator is unaware of contractual arrangements with the clinicians.

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156 7. Multiple vendors ceased doing business with the Debtor due to non-payment of invoices.

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158 Some new vendors now provide similar services, but staff indicate services are inferior to
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160 what was provided by the previous vendors.

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162 Carrollton Facility

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164 1. As outlined above, significant staff turnover, shortages, and vacancies over the past few
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166 months pose serious threats to patient safety and quality of care.

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168 2. The Director of Rehabilitation is not a licensed therapist.

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170 3. Multiple vendors (transport company, plumbing, landscape, etc.) stopped providing
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172 services because invoices were not paid.

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174 4. Multiple lights are/have been out of service above the nurse's station due to a several
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176 month long electrical problem in the ceiling.

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178 5. Several cloth chairs in the patient lounge areas are stained and soiled presenting
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180 significant hygiene and even contamination issues.

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182 6. Glucometer to measure blood sugar should be calibrated daily. Logs are either
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184 nonexistent or not up to date depending on the glucometer.

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186 7. There are no performance reviews conducted on any personnel.

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188 8. There are at least 11 open nursing positions.

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190 9. Nurses' and therapists' licenses are only checked on hiring an employee. Thereafter,
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192 there is no system in place to assure renewals have occurred. In effect, someone could
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194 lose a license and continue to be employed by the facility.

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196 10. There is no evidence tuberculosis skin testing is performed on employees.

Fort Worth Facility

1. Several cloth chairs in the patient lounge areas are stained and soiled presenting significant hygiene/infection control concerns.
2. Until last week the fire alarms and sprinklers have not been functional for a year. Other non-working/malfunctioning equipment includes washers, dryers, HVAC units, fax/copy machines, computers, ceiling lights throughout the facility, oven, exhaust fan, stove pilot lights, seal leaking on freezer, etc. There was a fire drill last week but otherwise nurses cannot remember the last one.
3. There is significant staff and patient turmoil at the facility surrounding CMS pulling a provider agreement. The facility census went from 70 or more to 35 over the past few days. At present, staffing is adequate due to the low census. However, prior to this past week there were some staffing shortages and unfilled positions due to staff resignations undoubtedly impacting safety and quality of care.
4. As mentioned above with the other facilities, threats to safety and quality of care have root causes in difficulty paying market rates to attract/retain qualified personnel. Staff interviewed verbalized the turnover threatens the safety and quality of care given to patients.
5. HHS visited the facility on 3/26/24 and, once again, cited multiple deficiencies or immediate jeopardy (IJ) issues related to patient care. The administrator is addressing the issues. HHS issued IJs multiple times in the past. Plans of correction are supposed to be posted in the facility - but are not.
6. Texas Administrative Code (554.1006) requires “the facility must have a program of restorative nursing care”. The DON verified there is no such program available in the

- 244 facility due to a lack of personnel.
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- 246 7. Various equipment calibrations are either never performed or sporadic: weight scales,
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- 248 Hoyer lifts, glucometers. Blood pressure cuffs, pulse oximeters, thermometers are owned
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- 250 by the nurses and there are no standards or checks performed on the equipment.
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- 252 8. The facility was without a DON for four months. The new DON, who has several years
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- 254 as a state nursing home inspector, was hired 1.5 weeks ago. The DON was unable to
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- 256 locate even basic nursing staff documentation related to staff competencies or training.
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- 258 9. The kitchen and dining areas are not clean: food on the tables, used meal trays laying on
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- 260 counters, refrigerator temperature logs inaccurate, fryer with spattered grease spilling
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- 262 over, lids off garbage cans, etc. The restroom off the kitchen area has a broken pipe for
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- 264 over a year. There is water on the floor and what appears as black mold on the walls.
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- 266 10. Nurses report fax and copy machines are out of ink, out of paper, or simply broken for
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- 268 months. Consequently, receiving or sending patient information to/from physician offices
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- 270 or hospitals simply does not occur.
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- 272 11. The DON and floor nurses report having to spend their own money to purchase such
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- 274 things as bandages and glucometer strips when supplies have been low over the past few
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- 276 months. On one occasion the kitchen was closed for breakfast and at least three nurses
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- 278 spent their own money to go outside the facility and purchase breakfast food for patients.
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- 280 12. Floor nurses told the PCO there was a recent delay in pharmacy services. The nurses
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- 282 were told by the pharmacy and X Ray company there was no contract. Consequently, a
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- 284 patient had to be transported to the hospital to have a PIC line inserted.
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- 286 13. While there is a certified dietetic manager in charge of the kitchen, there is no dietitian on
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- 288 staff nor are there any arrangements for consultation from a anyone certified.
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Overview

The Debtor owns and operates Remarkable Healthcare facilities in Seguin, Dallas, Carrollton (Prestonwood) and Fort Worth, Texas. The Debtor's Webpage (<https://www.remarkablehealthcare.net/services.html>) indicates the following programs/services are offered at each facility:

- 24-hour RN Coverage
- Full in-house therapy services - PT, OT, ST
- Individualized resident care plan treatments
- 24-hour, 7-days-a-week admissions
- Outpatient Therapy/Day Program
- Restorative Nursing Program
- Palliative care
- Off-site dialysis
- Experienced physician leadership
- Respite Care
- Nutrition & hydration programs
- Medication management & education
- Enteral feeding program
- Height and weight monitoring
- Diabetic management & education
- Bowel & bladder programs
- Respiratory Therapy
- Infectious disease management

Goals and Description of PCO's Visit

The PCO visited the Debtor's facilities on April 15, 16, 17 & 18, 2024 for the first time during the current Chapter 11 process. The goals of the visit were:

1. To determine and document the safety and quality of care being provided to patients by the Debtor

2. To determine if safety and quality of patient care is/is not being compromised as a result of Chapter 11 proceedings

To achieve the above goals the PCO visited the Debtor's facilities and spoke with the following personnel: Administrators, Directors of Nursing, Medical Director, Dietitians, Directors or heads of the kitchen, Directors of HR, Directors of Social Services, multiple staff nurses, physical therapists, members from the Infection Control Committees and Quality Improvement Committees and patients.

Prior to visiting the facilities, the PCO requested the following documents be available for review: organization charts, policies and procedures, patient census reports, employees continuing education, infection control and quality improvement committee reports, licenses for departments regulated by the State of Texas, lists of employees prior to and post filing of Chapter 11, patient satisfaction surveys/grievances for the past 3 months, strategic plan, employee files, patient readmission rates, evidence of nurses' shared decision making, Emergency Response Plan, and a list of indicators used by the Debtor to measure quality and safety of patient care. No facility was able to produce all of the requested materials so there is a significant gap between information requested and viewed by the PCO.

Scope of PCO's Visit Related to Quality & Safety

Measuring quality of care is challenging and multifaceted. In brief, measuring/assessing outcomes, processes, and structure provide a clear picture of safety and quality of care in health care facilities. The PCO did not focus on outcomes of care but rather on the Debtor's administrative and nursing processes and structure related to safety and quality of care.

Assessment of financial/billing data was not a part of the assessment.

Acknowledgement of Debtor Cooperation

Generally, the Debtor's staff and administration cooperated and provided as much information as possible/available. Much of the requested information was not locally available or located at corporate headquarters. Most staff were open and forthcoming with requested information and were knowledgeable about the Chapter 11 proceeding. The PCO frequently experienced conflicting information/data from staff/administration within each facility. Generally speaking, staff and administration provided the PCO with sincere responses to questions asked. Most staff and administrators believe the Chapter 11 proceedings have compromised patient quality or safety of care. Staff verified requests for supplies, personnel (i.e. nurses/therapists), and operational hardware are not sufficient for operations and impact safety and quality of patient care. Frequently, requests for new supplies, personnel, and operational hardware are not granted by the owners reportedly due to Chapter 11 financial constraints.

Personnel

The PCO evaluated types and appropriateness of staffing, staffing ratios, licenses, periodic training, emergency preparedness, skills verification, immunization status, staff longevity/turnover, physician involvement. Personnel were questioned about how Chapter 11 affects patient safety and quality of care. Most staff and one physician indicated concerns related to safety and quality of care due to a lack of continuity and numbers of personnel to care for patients.

All facilities have multiple open positions for employment: LVNs, RNs, assistants, social

workers, physical therapy, speech therapy, etc. Personnel turnover has been significant since Chapter 11 proceedings started.

Facilities have bed capacities ranging from 115 to 150 with occupancies of 35 to 72. One measure of safety and quality of care is nurse to patient ratios. None of the DONs were unable to identify nurse to patient ratios. However, the PCO determined one facility has a 1:15 nurse to patient ratio which is very high. Staff verify the vacant positions impose undue stress and compromise safety and quality of care.

Safety and Quality of Patient Care

The PCO evaluated the following areas in each facility: medication safety, dietary, medical testing (i.e. glucometers), facilities, quality improvement, infection control, vendor accessibility, patient complaints/satisfaction, fall prevention efforts, equipment. See above for significant findings identified at each facility related to safety and quality of care.

Summary

Safety and quality of care issues are significant and overwhelming in each facility. Some issues are a result of Chapter 11 while others are from long-term mismanagement/neglect at the corporate level. Patient safety and quality of care are compromised as a result of Chapter 11 and immediate steps to address identified issues are recommended.

Recommendations

The PCO's most significant recommendations are listed below and should immediately be addressed. The list below is not exhaustive but should be a starting point for the Debtor.

1. Immediately address the multiple issues outlined above for each facility.

2. Webpage is out of date regarding processes and procedures related to COVID and need changing.
3. Nursing: institute a systematic method to assess, on entry and at least yearly, nurse competencies.
4. Increase salaries to at least the community standards with the intention of attracting and retaining qualified personnel to fill vacant positions at all levels of the organization.
5. Maintenance: immediately repair or replace broken equipment, structural breakdowns (tile, floors, walls, trim, lights, etc.), vehicles, lawn care, and multiple other items outlined above. Provide working computers, fax and copy machines in the patient care areas for nurses to access. Extensively remodel areas of each facility to comply with codes.
6. Human Resources: consistently document at the local facility the training, licenses, tuberculosis testing, hepatitis B vaccines of employees. Systematize licensure renewals to assure licensed personnel keep current with State of Texas license requirements. Develop and operationalize performance reviews of each employee.
7. Fill vacant personnel positions at all levels with highly qualified and experienced persons.
8. Develop a system to measure patient satisfaction.
9. Immediately provide nurses with computers owned by the Debtor and stop nurses from using personal computers to access patient data.
10. Invest in blood pressure cuffs and stop nurses from bringing personal equipment for patient care purposes.
11. Calibrate equipment (scales, blood pressure cuffs, pulse oximeters, etc.) used in patient

495 care areas. Accurately and systematically record refrigerator temperatures.

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497 12. Improve communication between corporate headquarters and leadership at the local
498 facilities. Share IJs with all staff with the intent of addressing deficiencies at the local
499 department (nursing, dietary, physical therapy, etc.) levels.
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502 13. Safety and quality of care in each facility would greatly benefit from a consultation from
503 an infection control nurse. Such consultation would identify specific areas/situations of
504 concern.
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508 14. Educate and drill staff on emergency evacuation procedures on a regular basis.
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511 The PCO discussed the above concerns with each of the Debtor's administrators prior to
512 terminating a visit. The PCO understands the Debtor is probably selling three of the four
513 facilities. If the Debtor retains ownership of any facility the PCO should return within 30 days to
514 monitor progress on identified safety and quality of care issues listed above.
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520 Respectively submitted by

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